

REMARKS

This is responsive to the Office Action dated January 18, 2007. Accordingly, it is accompanied by a Request for Continued Examination and a petition to extend the time for response by 2 months, together with the required fees.

Claims 34 - 45, 58, and 59 stand rejected under 35 U.S.C. §103(a) as being unpatentable over three references, Onofrio, U.S. Patent No. 5,702,218 ("Onofrio"); Temple et al., U.S. Patent No. 3,332,118 ("Temple"); and Hamlin, U.S. Patent No. 4,615,514 ("Hamlin").

Onofrio

Onofrio discloses a "Fastener" that has, among other things, a threaded bolt 12, a self-centering washer 16', and wings 20 which the Examiner refers to as a "toggle bar" (this terminology will be used for purposes of argument herein).

Temple

Temple discloses a "Safety Line with Safety Anchor" that has a flexible connecting member 10 one end of which is attached to a slide or sleeve 9 that rides along a flexible cable 1. The other end of the connecting member 10 is pivotally attached to a lever 12 for pivotal control of an anchoring bar 3.

Hamlin

Hamlin discloses a "Holding Apparatus" that has a threaded rod 12, a pipe junction member 36, and pivoted arm members 20 and 22 controlled by respective cables 24 and 26. The arm members are apparently spring-loaded, because they are disclosed to be collapsed by pulling on the cables (Col. 2, lines 65 - 67) and opened by releasing the cables (Col. 3, lines 15 - 19).

As the Examiner has observed, the pipe junction member 36 has a top-side recess into which ends of the arm members 20 and 22 could hypothetically be inserted.

Claim 34

Claim 34 requires a flexible cable, a hole plug and a toggle bar, wherein an end of the toggle bar is adapted for locking engagement with the hole plug when the toggle bar is in a closed position.

Argument Concerning Claim 34 (Claims 34 - 57)

The theory on which the rejection of claim 34 is based is that it would have been obvious to (a) replace the threaded rod or bolt of Onofrio with a flexible cable as in Temple, and (b) modify the self-centering washer 16' of Onofrio by adding the top-side recess of Hamlin.

(a) Replacing the Threaded Rod 12

The asserted rationale for replacing the threaded bolt with a cable is that it would be “a simple way to operate the toggle bar, and . . . would be simple in construction and operation.” This rationale fails because the rod in Onofrio is *threaded*. A cable cannot be threaded and therefore cannot substitute for a threaded rod.

(b) Modifying the Washer 16'

The asserted rationale for modifying the self-centering washer of Onofrio with the top-side recess of Hamlin is that it would keep the toggle bar “in the closed position so as to introduce the bar through the opening . . . ”

The Examiner has not indicated any known or common sense reason to provide for locking a toggle bar in the closed position merely for inserting it through a hole. The prior art discloses no such need. Prior to insertion, the toggle bar can be manipulated by hand as needed, and it is common knowledge that devices such as Onofrio have always been used this way, with well known and long-standing commercial success.

Regardless whether the top-side recess of Hamlin *could* be used to provide a locking function, the only recognition to do so is found in Applicants' specification. They explain the role of locking the toggle bar in a preferred methodology that corresponds to the subject matter of claim 58, at Page 9, lines 12 - 20 of the specification. It is impermissible hindsight reconstruction to use Applicants' own teachings as a basis for rejecting their claims.

Claims 58 and 59

These rejections are set forth by paraphrasing claim language and asserting that what is paraphrased is taught by Onofrio. There is no evidence, reasoning, or explanation how Onofrio purportedly teaches the claimed subject matter.

Since Onofrio does not teach locking a toggle bar or similar mechanism in the closed position in the first place, it follows that Onofrio cannot teach "pushing on the handle member so as to unlock the toggle bar from the closed position," as recited in these claims. But regardless, merely copying the claim language and asserting that it is taught by the prior art is not a *prima facie* case under MPEP 2142.

Claims 46 - 57

These claims stand rejected as being unpatentable under 35 U.S.C. §103(a) over Onofrio, Temple, Hamlin, and Burbridge, U.S. Patent No. 5,209,621. However, these are dependent claims, and so the rejections are rendered moot by the points made above.

Respectfully submitted,



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